

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

AMERICAN FINANCIAL GROUP AND)	
CONSOLIDATED SUBSIDIARIES,)	
)	
Plaintiff,)	
)	Case No. 1:07-cv-574
v.)	
)	Judge Barrett
UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	

JUDGMENT

Based on the Opinion & Order entered on March 15, 2010 (docket entry number 62) and the parties' Stipulation Regarding Cross-Motions For Summary Judgment and Opinion & Order filed on June 13, 2010 (docket entry number 63), which sets forth certain facts that were not sufficiently developed in the cross-motions for summary judgment, the Court hereby amends its Opinion & Order denying the cross-motions for summary judgment and now enters summary judgment in favor of the Plaintiff American Financial Group And Consolidated Subsidiaries and against the Defendant United States of America for overpayments, plus statutory interest, for the following income tax periods and in the following amounts, subject to the provisions of 26 U.S.C. § 6402 and to the application of the global interest netting rules under 26 U.S.C. § 6621(d):

Income Tax Year	Amount of Overpayments of Tax made on 12/29/2005	Amount of Overpayment of Interest, plus Statutory Interest on Overpayments of Taxes And Interest, as of 4/30/2010
1996	\$ 2,067,227.00	\$ 1,946,895.39
1997	\$ 1,554,475.00	\$ 1,421,572.60
1998	\$ 2,247,198.00	\$ 2,003,856.66
1999	\$ 1,150,718.00	\$ 591,266.97
2000	\$ 2,013,755.00	\$ 1,001,138.74
2001	\$ 2,013,755.00	\$ 776,833.64

These amounts are based upon an increase of \$59,063,640.00 in tax reserves as a result of the application of Actuarial Guideline XXXIII (“AG 33”) to certain annuity contracts issued after January 1, 1981, and prior to December 31, 1995 (the date that AG 33 became effective). Plaintiff was required to use the Commissioner’s Annuities Reserve Valuation Method (“CARVM”) under 26 U.S.C. § 807(d)(3) to calculate its tax reserves for such contracts. As set forth in the Opinion & Order, AG 33 did not amend the Standard Valuation Law, nor did it change the definition of CARVM; instead, AG 33 was interpreting the proper application of the CARVM. Therefore, Plaintiff is entitled to deduct the \$59,063,640.00 ratably over 10 years beginning in 1996 under Section 807(f) of the Internal Revenue Code (26 U.S.C.). The Opinion & Order is incorporated herein and amended accordingly.

Judgment shall be entered accordingly.

It is SO ORDERED, ADJUDGED, and DECREED:

/s/ Michael R. Barrett
MICHAEL R. BARRETT
United States District Judge